

ASSEMBLY BILL

No. 291

Introduced by Assembly Member Wieckowski

February 8, 2011

An act to amend Section 25503.5 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 291, as introduced, Wieckowski. Hazardous materials: business plans.

(1) Existing law requires a business that handles a hazardous material to adopt a business plan for response to the release of hazardous materials, and to annually submit an inventory to the local administering agency if the business handles a specified amount of hazardous materials at any one time during the reporting year.

This bill would additionally require a business to adopt the plan or inventory for specified lesser or greater amounts of various classes of hazardous materials if the hazardous materials meets certain requirements. The administering agency would be required to make findings regarding the regulation of certain of these hazardous materials in consultation with the local fire chief. The bill would impose a state-mandated local program by imposing new duties upon administering agencies with regard to business plans.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25503.5 of the Health and Safety Code
2 is amended to read:
3 25503.5. (a) (1) A business, except as provided in subdivisions
4 (b), (c), and (d), shall establish and implement a business plan for
5 emergency response to a release or threatened release of a
6 hazardous material in accordance with the standards prescribed in
7 the regulations adopted pursuant to Section 25503, if the business
8 handles a hazardous material or a mixture containing a hazardous
9 material that has a quantity at any one time during the reporting
10 year that is any of the following:
11 (A) ~~Equal~~ *Except as provided in subparagraphs (B) to (E),*
12 *inclusive, equal to, or greater than, a total weight of 500 pounds*
13 *or a total volume of 55 gallons.*
14 ~~(B) Equal to, or greater than, 200 cubic feet at standard~~
15 ~~temperature and pressure, if the substance is compressed gas.~~
16 (B) *The threshold planning quantity, under both of the following*
17 *conditions:*
18 (i) *The hazardous material is an extremely hazardous substance,*
19 *as defined in Section 355.61 of Title 40 of the Code of Federal*
20 *Regulations.*
21 (ii) *The threshold planning quantity for that extremely hazardous*
22 *substance listed in Appendices A and B of Part 355 (commencing*
23 *with Section 355.1) of Subchapter J of Chapter I of Title 40 of the*
24 *Code of Federal Regulations is less than 500 pounds.*
25 (C) *A total weight of 10,000 pounds, if the hazardous material*
26 *is a solid or liquid substance that is classified as a hazard for*
27 *purposes of Section 5194 of Title 8 of the California Code of*
28 *Regulations solely as an irritant or sensitizer, unless the*
29 *administering agency finds, and provides notice to the business*
30 *handling the product, that the handling of lesser quantities of that*
31 *hazardous material requires the submission of a business plan, or*
32 *any portion thereof, in response to public health, safety, or*
33 *environmental concerns.*
34 (D) (i) *A total of 6,000 cubic feet, if the hazardous material is*
35 *a gas at standard temperature and pressure and is classified as a*

1 *hazard for the purposes of Section 5194 of Title 8 of the California*
2 *Code of Regulations solely as a compressed gas, unless the*
3 *administering agency finds, and provides notice to the business*
4 *handling the product, that the handling of lesser quantities of that*
5 *hazardous material requires the submission of a business plan, or*
6 *any portion thereof, in response to public health, safety, or*
7 *environmental concerns.*

8 *(ii) The hazardous materials subject to this subparagraph*
9 *include a gas for which the only health and physical hazards are*
10 *simple asphyxiation and the release of pressure.*

11 *(iii) The hazardous materials subject to this subparagraph do*
12 *not include gases in a cryogenic state.*

13 ~~(C)~~

14 *(E) If the substance is a radioactive material, it is handled in*
15 *quantities for which an emergency plan is required to be adopted*
16 *pursuant to Part 30 (commencing with Section 30.1), Part 40*
17 *(commencing with Section 40.1), or Part 70 (commencing with*
18 *Section 70.1), of Chapter 1 of Title 10 of the Code of Federal*
19 *Regulations, or pursuant to any regulations adopted by the state*
20 *in accordance with those regulations.*

21 *(2) In meeting the requirements of this subdivision, a business*
22 *may, if it elects to do so, use the format adopted pursuant to Section*
23 *25503.4.*

24 *(3) The administering agency shall make the findings required*
25 *by subparagraphs (C) and (D) of paragraph (1) in consultation*
26 *with the local fire chief.*

27 *(b) (1) Oxygen, nitrogen, and nitrous oxide, ordinarily*
28 *maintained by a physician, dentist, podiatrist, veterinarian, or*
29 *pharmacist, at his or her office or place of business, stored at each*
30 *office or place of business in quantities of not more than 1,000*
31 *cubic feet of each material at any one time, are exempt from this*
32 *section and from Section 25505. The administering agency may*
33 *require a one-time inventory of these materials for a fee not to*
34 *exceed fifty dollars (\$50) to pay for the costs incurred by the*
35 *agency in processing the inventory forms.*

36 *(2) (A) Lubricating oil is exempt from this section and Sections*
37 *25505 and 25509, for a single business facility, if the total volume*
38 *of each type of lubricating oil handled at that facility does not*
39 *exceed 55 gallons and the total volume of all types of lubricating*

1 oil handled at that facility does not exceed 275 gallons, at any one
2 time.

3 (B) For purposes of this paragraph, “lubricating oil” means any
4 oil intended for use in an internal combustion crankcase, or the
5 transmission, gearbox, differential, or hydraulic system of an
6 automobile, bus, truck, vessel, airplane, heavy equipment, or other
7 machinery powered by an internal combustion or electric powered
8 engine. “Lubricating oil” does not include used oil, as defined in
9 subdivision (a) of Section 25250.1.

10 (c) (1) Hazardous material contained solely in a consumer
11 product for direct distribution to, and use by, the general public is
12 exempt from the business plan requirements of this ~~chapter~~ *article*
13 unless the administering agency has found, and has provided notice
14 to the business handling the product, that the handling of certain
15 quantities of the product requires the submission of a business
16 plan, or any portion thereof, in response to public health, safety,
17 or environmental concerns.

18 (2) In addition to the authority specified in paragraph (4), the
19 administering agency may, in exceptional circumstances, following
20 notice and public hearing, exempt from the inventory provisions
21 of this ~~chapter~~ *article* any hazardous substance specified in
22 subdivision ~~(p)~~ (q) of Section 25501 if the administering agency
23 finds that the hazardous substance would not pose a present or
24 potential danger to the environment or to human health and safety
25 if the hazardous substance was released into the environment. The
26 administering agency shall specify in writing the basis for granting
27 any exemption under this paragraph. The administering agency
28 shall send a notice to the agency within five days from the effective
29 date of any exemption granted pursuant to this paragraph.

30 (3) The administering agency, upon application by a handler,
31 may exempt the handler, under conditions that the administering
32 agency determines to be proper, from any portion of the business
33 plan, upon a written finding that the exemption would not pose a
34 significant present or potential hazard to human health or safety
35 or to the environment or affect the ability of the administering
36 agency and emergency rescue personnel to effectively respond to
37 the release of a hazardous material, and that there are unusual
38 circumstances justifying the exemption. The administering agency
39 shall specify in writing the basis for any exemption under this
40 paragraph.

1 (4) The administering agency, upon application by a handler,
2 may exempt a hazardous material from the inventory provisions
3 of this ~~chapter~~ *article* upon proof that the material does not pose
4 a significant present or potential hazard to human health and safety
5 or to the environment if released into the workplace or
6 environment. The administering agency shall specify in writing
7 the basis for any exemption under this paragraph.

8 (5) An administering agency shall exempt a business operating
9 a farm for purposes of cultivating the soil or raising or harvesting
10 any agricultural or horticultural commodity from filing the
11 information in the business plan required by subdivisions (b) and
12 (c) of Section 25504 if all of the following requirements are met:

13 (A) The handler annually provides the inventory of information
14 required by Section 25509 to the county agricultural commissioner
15 before January 1 of each year.

16 (B) Each building in which hazardous materials subject to this
17 ~~chapter~~ *article* are stored is posted with signs, in accordance with
18 regulations that the agency shall adopt, that provide notice of the
19 storage of any of the following:

20 (i) Pesticides.

21 (ii) Petroleum fuels and oil.

22 (iii) Types of fertilizers.

23 (C) Each county agricultural commissioner forwards the
24 inventory to the administering agency within 30 days from the
25 date of receipt of the inventory.

26 (6) The administering agency shall exempt a business operating
27 an unstaffed remote facility located in an isolated sparsely
28 populated area from the hazardous materials business plan and
29 inventory requirements of this article if the facility is not otherwise
30 subject to the requirements of applicable federal law, and all of
31 the following requirements are met:

32 (A) The types and quantities of materials onsite are limited to
33 one or more of the following:

34 (i) Five hundred standard cubic feet of compressed inert gases
35 (asphyxiation and pressure hazards only).

36 (ii) Five hundred gallons of combustible liquid used as a fuel
37 source.

38 (iii) Two hundred gallons of corrosive liquids used as
39 electrolytes in closed containers.

40 (iv) Five hundred gallons of lubricating and hydraulic fluids.

1 (v) One thousand two hundred gallons of flammable gas used
2 as a fuel source.

3 (B) The facility is secured and not accessible to the public.

4 (C) Warning signs are posted and maintained for hazardous
5 materials pursuant to the California Fire Code.

6 (D) A one-time notification and inventory are provided to the
7 administering agency along with a processing fee in lieu of the
8 existing fee. The fee shall not exceed the actual cost of processing
9 the notification and inventory, including a verification inspection,
10 if necessary.

11 (E) If the information contained in the initial notification or
12 inventory changes and the time period of the change is longer than
13 30 days, the notification or inventory shall be resubmitted within
14 30 days to the administering agency to reflect the change, along
15 with a processing fee, in lieu of the existing fee, that does not
16 exceed the actual cost of processing the amended notification or
17 inventory, including a verification inspection, if necessary.

18 (F) The administering agency shall forward a copy of the
19 notification and inventory to those agencies that share responsibility
20 for emergency response.

21 (G) The administering agency may require an unstaffed remote
22 facility to submit a hazardous materials business plan and inventory
23 in accordance with this article if the agency finds that special
24 circumstances exist such that development and maintenance of the
25 business plan and inventory are necessary to protect public health
26 and safety and the environment.

27 ~~On-premise~~ *On-premise* use, storage, or both, of propane in
28 an amount not to exceed 300 gallons that is for the sole purpose
29 of heating the employee working areas within that business is
30 exempt from this section, unless the administering agency finds,
31 and provides notice to the business handling the propane, that the
32 handling of the on-premise propane requires the submission of a
33 business plan, or any portion thereof, in response to public health,
34 safety, or environmental concerns.

35 (e) The administering agency shall provide all information
36 obtained from completed inventory forms, upon request, to
37 emergency rescue personnel on a 24-hour basis.

38 (f) The administering agency shall adopt procedures to provide
39 for public input when approving any applications submitted
40 pursuant to paragraph (3) or (4) of subdivision (c).

1 SEC. 2. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

O